HIGH COURT OF CHHATTISGARH AT BILASPUR

REVIEW PETITION No. 66 of 2007

APPLICANT : Deepak Sharma, S/o Ramashankar Sharma, Aged about 50 years, R/o Ward No. 21, Manendragarh, District Korea (C.G.)

VERSUS

NON-APPLICANT : 1. State of Chhattisgarh Through the Secretary, Department of Public Works, D.K.S. Bhawan, Mantralaya, Raipur.
2. The Executive Engineer, Chhattisgarh Housing Board, Bilaspur Circle, Bilaspur (C.G.)
3. The Executive Engineer, Chhattisgarh Housing Board, Program Circle, Raigarh (C.G.)

APPLICATION FOR REVIEW THE ORDER DATED 15.05.2007

BY CIRCULATION.

SB: Hon'ble Shri Satish K. Agnihotri, J.

ORDER
(Passed on 15th day of October, 2007)

I.A. No. 1, this is an application for condonation of delay.

Sufficient cause has been shown. The application is ordered as prayed for.

1. By this application, the applicant seeks review of the order dated 15.05.2007 passed in Writ Petition (C) No. 2804 of 2007 (Deepak Sharma Vs. State of Chhattisgarh & Others).

2. The facts, in nutshell are that this court vide order dated 15.05.2007 dismissed the petition of the petitioner holding that this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings, based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

3. It was held that the petitioner was issued notice dated 24.01.2006 for payment of Rs. 5,51,636/- within a period of 15 days by the Additional Tehsildar, Chhattisgarh Housing Board, Bilaspur. Thereafter, one more notice was issued on 28.01.2006 for recovery of Rs. 10,65,139/- within a period of 15 days failing which, the said amount was recoverable under the provisions of Section 146 of the Chhattisgarh Land Revenue Code, 1959.

4. On perusal of the pleadings and documents, this Court came to the conclusion that the applicant was given 15 days time to make the payment but he did not comply with the said notices and the applicant failed to make any submission before the Board of Revenue as is evident from the observation of the Board of Revenue in its order dated 12.01.2007 passed in Revision Case No. R.N.11/R/A-76/180/2006 at para 5, which finds a place at para 6 of the judgment against which the review is sought for.

5. The review applicant has sought for review of the order on the grounds that "the Hon'ble Single Judge passed the order impugned relying on the judgment of the Hon'ble Supreme Court in the case of Surya Dev Rai Vs. Ram Chander Rai (2003) 6 SCC 675, which was observed in the order, but para 38 of the said judgment was not considered, which supports the case of the petitioner." Further on the ground that he may be allowed to raise new grounds which could not be raised at the time of hearing of the writ petition in its motion stage.

6. So far as the first ground of the review application is concerned, this Court vide its order dated 15.05.2007 in W.P.(C) No. 2804/2007 has crystallized para 20 and 38 of the judgment of the Supreme Court in the case of Surya Dev Rai (supra) in respect of the case of the petitioner holding that the impugned order did not suffer from any procedural error, perversity, irregularity or illegality.

7. The second ground as stated in column 'IV' of the review application reads as under :

> "That this Hon'ble Court may pleased to give a liberty to the applicant to present the grounds which could not be raised at the time of hearing of the writ petition in its motion stage".

This ground of the application deserves to be rejected as it is settled principle of law that it is not open to a party to the lis to ask for a clarification contrary to or inconsistent with its stand taken by it in the writ proceedings. [See State of Haryana and others Vs. M.P.Mohla[1],].

8. Thus, this Court in review should not consider new grounds which was not raised earlier in the writ petition and the applicant should not be permitted to argue the entire case afresh which would amount to convert the review petition into an appeal and the same is not sustainable in law. (Smt. Meera Bhanjan Vs. Smt. Nirmala Kumar Choudhary[2], Lily Thomas, etc. Vs. Union of India and others[3], Ajit Kumar Rath Vs. State of Orissa and others[4], Government of T.N. and others Vs. M.Ananchu Asari and others[5], and Kerla State Electricity Board Vs. Hitech Electrothermics & Hydropower Ltd and others[6].)

9. The applicant has not pointed out any manifest error on the record and the applicant has not further brought into the notice, any new fact which could not be produced earlier despite diligent efforts made by the applicant. It is well settled principles of law that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of the Code of Civil Procedure, even in exercise of review jurisdiction by the High Court under Article 226 of the Constitution. The applicant has not produced any new ground for review, except the same ground which has been considered and decided in the writ petition.

10. Applying the well settled principles of law to the present case, there is no ground available for review of the order dated 15.05.2007, under the garb of the review application, the applicant seek an opportunity to argue the entire case afresh which would amount to convert the review application into an appeal and the same is not sustainable in law.

11. As a result and in view of the foregoing, this review application is dismissed. No order as to costs.

Sd/-
Satish K.Agnihotri
Judge

1. 2007 (1) SCC 457
2. AIR 1995 SC 455
3. AIR 2000 SC 1650
4. AIR 2000 SC 85
5. (2005) 2 SCC 332
6. 2005) 6 SCC 651

Amit